

P-421/C-87-610P421/C-87-680 APPROVING STIPULATION FOR SETTLEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Complaint Against
Northwestern Bell Telephone Company by the
Minnesota Builders Association

ISSUE DATE: January 26, 1989

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In the Matter of the Complaint Against
Northwestern Bell Telephone Company by
Michael Ives

ORDER APPROVING STIPULATION FOR
SETTLEMENT

PROCEDURAL HISTORY

On December 31, 1986, the Minnesota Public Utilities Commission (the Commission) entered an Order providing for the deregulation of the installation and maintenance of inside wiring and house riser cable. Docket No. P-999/CI-86-747. That Order, and the proceeding leading to it, resulted from a Federal Communications Commission (FCC) Order in FCC Docket 79-105 dated February 24, 1986. The FCC Order deregulated inside wiring and prohibited state regulation of inside wiring as of January 1, 1987.

The Commission's Order set forth general principles regarding the placement of demarcation points, the points separating equipment belonging to the telephone company from equipment belonging to its customers. The general rule set forth in the Order was that demarcation points would be established by mutual agreement at or near the place where the telephone company's facilities entered the customer's building or property.

On September 24, 1987, the Commission issued its Order Approving Northwestern Bell Revised Tariff Pages for Service Responsibility and Single Demarcation Points in Docket No. P-999/CI-86-747. That Order treated the demarcation point issue in more detail, requiring Northwestern Bell Telephone Company (NWB) to install a single demarcation point in most multi-building single-owner property situations. Property owners who wanted more than one demarcation point were to pay the costs associated with installing the additional demarcation points, although maintenance of the facilities up to and including all demarcation points was to be performed as a regulated service.

Two informal complaints were filed with the Commission alleging that the demarcation requirement created a hardship for contractors and owners of multi-unit structures. The expense of providing the wiring would have to be passed on to renters or purchasers of units.

On November 13, 1987, the Commission issued an Order addressing these complaints. The Commission established one demarcation point for each residential structure having a separate ground level entrance. Residential structures sharing common walls, but not sharing common entrances or common space, such as hallways or basements, would have separate demarcation points. Multi-tenant residential structures sharing common entrances or common space would have one demarcation point per structure. The Order did not address the time period from January 1, 1987 to November 13, 1987 when some customers had installed wire at their own expense.

On October 25, 1988, parties involved in this matter filed a proposed settlement which allows property owners to recover from NWB expenses incurred in the installation of inside wire from January 1, 1987 to November 13, 1987.

The Commission met on December 28, 1988 to consider the positions of the parties.

FINDINGS AND CONCLUSIONS

The issue before the Commission is whether to accept the Proposed Stipulation of Settlement submitted by the parties.

Summary of the Proposed Stipulation of Settlement

The Commission finds that the following main points were agreed to by parties to the Stipulation of Settlement.

First, within 45 days of the Commission's approval of the Stipulation, NWB shall notify owners in writing of NWB's willingness to purchase the cable at the owner's actual out-of-pocket cost for acquisition and installation. The Company will contact all property owners it can identify. The Builders Association of Minnesota, the Minnesota Multi-Housing Association and the Minnesota Manufacturing Home Association shall also provide copies of the notice to their members.

Second, owners will have 60 days after receiving NWB's notice of willingness to purchase property to offer to sell their property to NWB.

Third, to determine if the owner's cost is reasonable, NWB will match the cost up to $130\% \times (\text{NWB's cost of materials plus } 50\% + \text{NWB's cost of installation labor})$. If the cost is greater than this amount, NWB will examine it for unusual circumstances, and either pay the amount requested or offer the amount determined by the formula. If the customer refuses these terms, he must retain ownership of the cable.

Fourth, if an owner does not respond to the Company's offer within 60 days, or the owner's offer to sell its property to NWB is rejected, the demarcation point established in the Commission's December 31, 1986 Order continues to apply to the property and the owner remains fully responsible

for the operation and maintenance of the cable.

Fifth, within six months of the Commission's acceptance of the Stipulation, the Company will file tariffs allowing NWB to assess a one time charge to all customers to cover the non-recurring costs of the purchases of cable plus an increase in monthly rates to recover recurring costs. The Commission may accept or reject the proposed rates.

The Commission finds that the proposed Stipulation of Settlement is reasonable and in the public interest and will accept it. The Stipulation resolves the complaints that have been filed in this proceeding. It provides uniform treatment for the installation and maintenance of inside wire and house riser cable. It maintains consistent standards for the installation of such wiring and simplifies its maintenance in a manner that is fair to the public and the Company. The Commission will approve the Stipulation of Settlement.

Regarding the tariff filing the Company will be making in six months, the Commission notes that in Docket No. P-999/CI-86-747 NWB and many other telephone companies were ordered to reduce local rates to reflect the deregulation of inside wire and house riser cable. The Commission ordered that rates be lowered to reflect the lower costs. The Commission recognizes that there may be some cost increases due to NWB reassuming these expenses and will review them at a later date. The Stipulation recognizes this principle.

In accepting the Stipulation, the Commission is not accepting or approving a specific rate increase or its application. The Commission is approving the principle that the Company is entitled to recover reasonable expenses incurred pursuant to this Order. At this time, NWB is unable to provide any estimate of the rate increase it will seek. While the Stipulation provides a mechanism to recover these expenses, the amount of these expenses is an open issue. The Commission will examine the rate increase proposal when the Company submits its tariffs within 6 months. All parties will be able to comment on the amounts and the application of the increase.

ORDER

1. The Stipulation of Settlement filed by the parties to this matter on October 25, 1988 is hereby accepted.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)